

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIZABETH HARDING WEINSTEIN,

Plaintiff,

ORDER

- against -

No. 21-CV-1996 (CS)

VILLAGE OF BRIARCLIFF MANOR, *et al.*,

Defendants.
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Seibel, J.

WHEREAS Plaintiff Elizabeth Harding Weinstein's submissions in this matter have raised the issue of her competency by, among other things, challenging a commitment order allegedly issued by Village Justice Howard T. Code on March 9, 2021, (*see* Doc. 5), and her alleged involuntary commitment at St. Vincent's Hospital Westchester from March 9, 2021 to April 2, 2021, (*see id.*; Doc. 6; Doc. 10 ¶¶ 33-38, 50); and

WHEREAS the Court finds it appropriate given the circumstances to conduct an inquiry into Plaintiff's competency and whether it would be appropriate to appoint a guardian *ad litem* pursuant to Federal Rule of Civil Procedure 17(c), *see Lewis v. Newburgh Hous. Auth.*, 692 F. App'x 673, 674-75 (2d Cir. 2017) (summary order), *as amended* (July 6, 2017), or take other appropriate measures; and

WHEREAS Plaintiff's appeals from the Court's previous orders seeking information regarding competency have been dismissed by the Second Circuit, *see* Order, *Weinstein v. Village of Briarcliff Manor*, No. 21-1099 (2d Cir. July 8, 2021), ECF No. 58; Order, *Weinstein v. Village of Briarcliff Manor*, No. 21-1127 (2d Cir. July 8, 2021), ECF No. 43 Order, *Weinstein v. Village of Briarcliff Manor*, No. 21-1127 (2d Cir. July 14, 2021), ECF No. 49; and

WHEREAS the Court finds that Plaintiff's psychotherapy records from Elizabeth Bussian, LCSW are needed to aid in the Court's required determination of Plaintiff's competency, and therefore "the interests of justice significantly outweigh the need for confidentiality," N.Y. Mental Hyg. Law § 33.13(c)(1); and

WHEREAS a health care provider may disclose protected health information in the course of a judicial proceeding in response to a court order, *see* 45 C.F.R. 164.512(e)(1)(i); and

WHEREAS to the extent that the Court seeks these documents for *in camera* review, their confidentiality shall be maintained; and

WHEREAS the Court sent via UPS a copy of its July 22 Order, (Doc. 34), to Elizabeth Bussian¹ at the address listed on her April 16, 2021 letter regarding Ms. Weinstein – 180 S. Broadway, Ste. 301, White Plains, NY 10605, (Doc. 33 at 6) – and that mailing was returned by UPS with the comment "REASON FOR RETURN: COMPANY OR PERSON UNKNOWN, NOT DELIVERED" (Exhibit 1, attached); and

WHEREAS Ms. Bussian's June 20, 2021 letter regarding Ms. Weinstein lists Ms. Bussian's address as 180 S. Broadway, Ste. 207, White Plains, NY 10605, (Doc. 33 at 5); and

WHEREAS the Court will send this Order to that address,

IT IS HEREBY ORDERED that Elizabeth Bussian shall, no later than July 30, 2021, submit to the Court for *in camera* review any and all mental health records relating to Plaintiff Elizabeth Harding Weinstein for the period March 9, 2021 to the present.

¹ The Court notes the typographical error in its July 20 Order and mailing misspelling Ms. Bussian's last name as "Bussain" (Exhibit 1, attached). For the avoidance of doubt, both this order and the Court's Order of July 20, 2021 (Doc. 34) are directed to Elizabeth Bussian.

The records shall be delivered directly to my chambers via mail, fax, or personal delivery at the Hon. Charles L. Brieant Jr. Federal Building and U.S. Courthouse, 300 Quarropas Street, White Plains, New York 10601.

SO ORDERED.

Dated: July 23, 2021
White Plains, New York



CATHY SEIBEL, U.S.D.J.

Exhibit 1

ups		UPS Next Day Air Saver [®]		Shipping Document	
See instructions on back. Visit UPS.com or call 1-800-PICK-UPS [®] (800-742-5877) for additional information and Terms and Conditions.					
TRACKING NUMBER		1Z A74 Y45 23 1002 381 1			
SHIPMENT FROM					
SHIPPER'S UPS ACCOUNT NO.		A 7 4 Y 4 5			
REFERENCE NUMBER					
21 CV 1996					
NAME		TELEPHONE			
[REDACTED]		[REDACTED]			
COMPANY					
U.S.D.C. - S.D.N.Y. Room 633					
STREET ADDRESS					
300 QUARROPAS STREET					
CITY AND STATE		ZIP CODE			
WHITE PLAINS NY		10601			
EXTREMELY URGENT DELIVERY TO					
NAME		TELEPHONE			
Elizabeth Bussan		[REDACTED]			
COMPANY					
LCSW					
STREET ADDRESS		DEPT./FLR.		Residential Delivery	
180 South Broadway		Suite 301		[REDACTED]	
CITY AND STATE		ZIP CODE			
White Plains, NY		10605			
3 WEIGHT					
LTR		WEIGHT		DIMENSIONAL WEIGHT If Applicable	
[REDACTED]		[REDACTED]		[REDACTED]	
4 SHIPPER RELEASE					
[REDACTED]					
5 NEXT DAY AIR SAVER CHARGE					
[REDACTED]					
6 OPTIONAL SERVICES					
SATURDAY PICKUP See instructions.		[REDACTED]			
DECLARED VALUE FOR CARRIAGE For declared value over \$100, see instructions.		AMOUNT		[REDACTED]	
C.O.D. An C.O.D. order must be attached and attach completed UPS C.O.D. tag to package.		AMOUNT		[REDACTED]	
7 ADDITIONAL HANDLING CHARGE		[REDACTED]			
TOTAL CHARGES		[REDACTED]			
8 METHOD OF PAYMENT					
SHIPPER'S ACCOUNT NUMBER		BILL RECEIVER		BILL THIRD PARTY	
[REDACTED]		[REDACTED]		[REDACTED]	
CREDIT CARD		American Express		Diner's Club	
[REDACTED]		MasterCard		VISA	
CHECK		[REDACTED]			
9 RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. EXPIRATION DATE					
[REDACTED]					
THIRD PARTY'S COMPANY NAME AND ADDRESS					
STREET ADDRESS					
CITY AND STATE					
ZIP CODE					
SHIPPER'S SIGNATURE					
[REDACTED]					
DATE OF SHIPMENT					
6/20/21					
SHIPPER'S COPY					
0201952542609 6/12 RRD					

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